

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harold Rodriguez	Team: Squad #5	CCRB Case #: 201602859	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/26/2016 3:14 PM	Location of Incident: § 87(2)(b)	Precinct: 105	18 Mo. SOL 9/26/2017	EO SOL 9/26/2017	
Date/Time CV Reported Tue, 03/29/2016 6:10 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 04/04/2016 10:58 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. CPT Courtney Nilan	00000	935402	105 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Anil Jacob	22372	936801	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CPT Courtney Nilan	Abuse: Captain Courtney Nilan authorized the entry and search § 87(2)(b) in Queens.	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed the following complaint with IAB on March 29, 2016, generating log number 16-11073. The complaint was received at the CCRB on April 4, 2016.

On March 26, 2016, at approximately 3:15 p.m., § 87(2)(b) was in his home located at § 87(2)(b) in Queens. After hearing a commotion outside, he looked out the window and saw several officers in tactical gear with his landlord, § 87(2)(b). § 87(2)(b) opened the door and was pulled out of the apartment by an unidentified officer and handcuffed. § 87(2)(b) was placed in a police vehicle and driven away. As he was driven away, he saw police officers enter the house (**Allegation A**). He did not see what occurred after this point. § 87(2)(b) was charged with § 87(2)(b).

There is no video footage associated with this case.

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation due to § 87(2)(b) arrest.
- An updated Notice of Claims request was sent to the NYC Comptroller's office and will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first complaint filed by § 87(2)(b) with the CCRB (BR 01).
- Captain Nilan has been a member of service for 11 years and has 10 allegations against her across 6 cases. § 87(2)(g)
- In CCRB case 201504067, Captain Nilan had two substantiated allegations for an entry and a refusal to process a civilian complaint. The board recommended Command Discipline A for both allegations and they have no NYPD disposition thus far.

Potential Issues

- § 87(2)(b) provided a detailed telephone statement but refused to provide a verified statement to the CCRB.

Findings and Recommendations

Allegations not pleaded

§ 87(2)(g)

Allegation A – Abuse of Authority: Captain Courtney Nilan authorized the entry and search of § 87(2)(b) in Queens.

According to § 87(2)(b) he evicted § 87(2)(b) and § 87(2)(b) in December of 2015. When he went to check on the house on May 26, 2016, § 87(2)(b) lifted his shirt and showed him a silver firearm. § 87(2)(b) called the police as he felt threatened by § 87(2)(b). After the police arrived, § 87(2)(b) eventually opened the door after approximately five minutes. The officers arrested § 87(2)(b) and § 87(2)(b) then requested that the officers enter the house to search for the gun.

§ 87(2)(b) admitted that he had not paid rent since December 2015 and continued to live at the location even after he had been evicted. He denied having a firearm and stated that he had not seen § 87(2)(b) in several months. § 87(2)(b) stated that he exited the house and was arrested by officers. After he was placed in a police vehicle and driven away, he noticed officers going into the house. He was not in any position to hear officers speaking with § 87(2)(b) who was across the street.

PO Anil Jacob stated that Captain Nilan called for ESU. The ESU officers knocked on the door and once § 87(2)(b) opened, they handcuffed him immediately. ESU proceeded in and cleared the house. Captain Nilan then spoke with § 87(2)(b) who gave consent to enter the house and search for § 87(2)(b) gun. Unidentified officers along with PO Jacob entered the house but they could not search because of the conditions of the house. He stated that there were garbage bags and boxes stacked to the ceiling and that furniture was flipped over on its side. The officers exited the house without searching.

Captain Nilan's statement was consistent with PO Jacob that officers entered the house but could not search properly due to the poor conditions. She was also consistent that she got consent from § 87(2)(b) to search the house for the gun.

In People v. Ponto, 103 A.D.2d 573 (2nd Dept., 1984) (BR 02), a landlady gave consent for officers to enter an apartment which was rented by an individual that threatened her with a gun. The Supreme Court decided that the officers' warrantless entry into the apartment was not justified as the tenants were still entitled to privacy as long as they were legal tenants at the time. The landlord did not have legal authority to consent to police entry.

§ 87(2)(g)

§ 87(2)(g)

Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____

Title/Signature

Print

Date